

## THE SHORT FORM ARBITRATION RULES OF THE MINOR METALS TRADE ASSOCIATION

### 1. Introduction

1.1 These short form arbitration rules (“the Short Form Rules”) will apply when the parties to the contract have agreed in writing that:

1.1.1 disputes in relation to that contract be settled in accordance with the arbitration rules from time to time of the Minor Metals Trade Association (“MMTA”); and

1.1.2 the maximum value of the claim is USD \$250,000 or less (exclusive of interest on the sum claimed, the costs of the arbitration and legal costs) or the equivalent in other currencies, or such other amount as has been agreed in writing by the parties.

1.2 In addition to the clauses set out in these Short Form Rules, the following clauses of the Arbitration Rules of the Minor Metals Trade Association as approved by the directors of the MMTA on 24 April 2017 (the “Long Form Rules”) also apply to these Short Form Rules in full: 1.2, 1.4, 2.1, 2.2, 7, 8.6, 8.7, 11, 13.3, 13.4, 14.

In each of these clauses:

1.2.1 the words “Tribunal” or “member of the Tribunal” or “arbitrators” shall be replaced with the word “Arbitrator”

1.2.1 the words “Arbitration Rules” or “Rules” shall be replaced with the words “Short Form Rules”

1.3 Unless agreed otherwise among the parties, the seat of the arbitration shall be England and these Short Form Rules shall be governed by and construed in accordance with English law.

### 2. Commencing an Arbitration

2.1 The party commencing the arbitration (“the Claimant”) shall serve a Notice to Arbitrate on the other party (“the Respondent”). The Claimant shall also at the same time send a copy of the Notice to Arbitrate to the secretary of the MMTA (“the Secretary”), accompanied by a registration fee and deposit in the amount as may be specified by the Arbitration Committee of the MMTA (“the Arbitration Committee”) from time to time.

### 3. Notice to Arbitrate

3.1 The Notice to Arbitrate shall include:

3.1.1 The name and address for service of the Claimant, including an email address

3.1.2 The name and address of the Respondent to whom the Notice to Arbitrate is sent, including an email address

3.1.3 A reference to the arbitration clause or agreement that is involved

- 3.1.4 A brief statement of the nature and circumstances of the dispute
- 3.1.5 A brief statement of the relief claimed / the value of the claim
- 3.1.6 Confirmation as to whether the Respondent has agreed to a named sole Arbitrator or not, and if so, details of the agreed named Arbitrator.
- 3.2 The Secretary shall acknowledge receipt of the Notice to Arbitrate, registration fee and deposit, copying the acknowledgement to the Respondent. The Notice of Arbitration shall be valid upon receipt by the Secretary of the registration fee and deposit. The date of receipt of a valid Notice to Arbitrate by the Respondent shall be the date of commencement of the arbitration.
- 3.3 Within 7 days of receipt of the Notice to Arbitrate, the Respondent shall send to the Claimant, copied to the Secretary, a Counter Notice which shall contain:
  - 3.3.1 the name and address for service of the Respondent, including an email address
  - 3.3.2 confirmation of the position regarding whether a named Arbitrator has been agreed.
- 3.4 If the Respondent fails to serve the Counter Notice or has not agreed with the Claimant to a named Arbitrator then the Arbitration Committee shall proceed with the appointment of an Arbitrator.
- 4. Appointment of the Arbitrator**
  - 4.1 Arbitrations under these Short Form Rules shall be conducted by a sole Arbitrator who shall, unless the parties agree otherwise in writing, be appointed by the Arbitration Committee of the MMTA.
  - 4.2 Upon 14 days of receipt of the registration fee and deposit, the Secretary shall:
    - 4.2.1 appoint the Arbitrator agreed by the parties; or
    - 4.2.2 If the parties do not agree on the Arbitrator, ask the Arbitration Committee to appoint an Arbitrator.
  - 4.3 The Arbitrator shall remain at all times, irrespective of the manner of his/her appointment, wholly independent and impartial, and shall not act as advocate for either party.
  - 4.4 If at any time after his/her appointment, the Arbitrator is unable or unwilling to act for any reason, then within 7 days of receipt of a written request from either the Arbitrator or from both parties, the Arbitration Committee shall appoint a replacement.
  - 4.5 The Arbitrator shall have power, on the application of either party or on his own motion and on notice to both parties, to extend or abridge any of the time limits and procedures specified in these Short Form Rules.

## **5. Submissions of documents**

- 5.1 Unless otherwise ordered by the Arbitrator, the procedure following the appointment of the Arbitrator shall be as set out in the rest of this Rule.
- 5.2 Within 21 days after the appointment of the Arbitrator, the Claimant shall send to the Arbitrator and to the Respondent written points of claim, which must be of no more than 2,500 words, which sets out any facts or contentions of law on which the Claimant relies, and the relief claimed. The Claimant shall attach to the points of claim all evidence including witness statements, documents or any other information relied upon. The Claimant may serve the points of claim on the Respondent at the same time as the Notice to Arbitrate.
- 5.3 Within 21 days of receipt of the points of claim, the Respondent shall send to the Arbitrator and to the Claimant written points of defence, which must be of no more than 2,500 words, stating which of the facts or contentions of law in the points of claim it admits or not, and on what ground, and on what other facts and contentions of law it relies. The Respondent shall attach to the points of defence all evidence including witness statements, documents or any other information relied upon. Any counter claims shall be submitted with the points of defence in the same manner as claims are set out in the points of claim. A registration fee and deposit for the counter claims must be paid to the Secretary at the same time that the points of defence are sent to the Arbitrator and to the Claimant.
- 5.4 Within 21 days of receipt of the points of defence, the Claimant may send to the Arbitrator and to the Respondent written points of reply, which must be of no more than 2,500 words, which, where there are counter claims, shall include points of defence to counter claims. Where the points of reply include points of defence to counter claims, the Claimant shall attach to the points of reply any further evidence, limited to issues raised for the first time in the counter claims, including witness statements, documents or any other information relied upon.
- 5.5 If the points of reply contain points of defence to counter claims, the Respondent may within 21 days of receipt, send to the Arbitrator and to the Claimant written points of reply, which must be of no more than 2,500 words, regarding the counter claims.
- 5.6 Each witness statement must be of no more than 2,000 words. No more than 3 witness statements may be served by either side without permission from the Arbitrator.
- 5.7 There shall be no further disclosure of documents, save as provided for in clause 11 of the Long Form Rules.
- 5.8 Within 7 days after the close of pleadings, the Arbitrator shall give directions, if any, for the subsequent procedure of the arbitration.

## **6. Awards**

- 6.1 The Arbitrator will decide the case on paper without a hearing based on the relevant documents alone, unless, at the Arbitrator's sole discretion, he/she considers an oral hearing necessary in order to justly dispose of the arbitration.

- 6.2 The Arbitrator shall make his/her award in writing. The award shall include brief written reasons.
- 6.3 The Arbitrator shall have power to award interest at such rate and for such period as he/she considers fit for any sum after its due date whether before or after commencement of the arbitration.
- 6.4 In the event of a settlement, the Arbitrator may make an award recording the settlement, if either party so requests.
- 6.5 Awards shall be final and binding on the parties as from the date they are made.
- 6.6 The parties agree to exclude all rights of appeal to the Courts on points of law under section 69 of the Arbitration Act 1996.
- 6.7 The award of the Arbitrator shall be deposited by him/her with the Secretary, who shall notify each party of such receipt. Either party may then take up the award on payment by that party of the costs and expenses of the arbitration (including the remuneration of the Arbitrator) notwithstanding any direction in the award as to the ultimate responsibility for same. Upon the award being taken up by either party, a copy thereof shall be sent forthwith by the Secretary to the other party.
- 6.8 In the event of the award not being taken up by either party within 28 days of notification by the Secretary, the deposit(s) referred to in rules 2.1 and 5.3 shall be forfeited. The Secretary may in his/her discretion call upon the parties, or either of them, to take up the award and to pay forthwith the costs and expenses of the award, including the remuneration of the Arbitrator.
- 7. Cost and Deposit**
- 7.1 The Arbitrator shall specify in the award the amount of the costs of the arbitration (which include the remuneration of the Arbitrator, the registration fee, the administration charges of the MMTA, fees of experts called by the Arbitrator, if any, and incidental costs), and shall determine the proportions in which they shall be borne by the parties.
- 7.2 The Arbitrator shall have power:
- 7.2.1 to order in his/her award that all or part of the legal or other costs of one party be paid by the other party, up to a maximum value of 25% of the value of the claim.
- 7.2.2 to determine or assess the amount of these costs if the parties cannot agree, and for this purpose shall not be *functus officio*.